

## GUIDELINES FOR ACCESS TO VIRGINIA EMPLOYMENT COMMISSION DATA VEC-GD-1(03)

**Preamble:** The Virginia Employment Commission is required to provide certain information to appropriate public officials or their agents in pursuit of specific public responsibilities. These requirements are found in § 60.2-114 of the Code of Virginia. Under these provisions, the VEC is required to disclose information from its records to:

- The Workers' Compensation Commission if it requests such records and to claimants appearing before the Workers' Compensation Commission to the extent necessary for the proper presentation of his claim.
- To the Secretary of Health and Human Services and the Division of Child Support Enforcement of the Department of Social Services for the purposes of the National Directory of New Hires.
- To agencies or political subdivisions of the Commonwealth, or their agents, for the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political subdivisions.

In addition, the U.S. Department of Labor requires the VEC to abide by certain confidentiality requirements in providing access to the agency's data. Section 303(a)(1) of the Social Security Act has been interpreted as requiring state laws to prohibit disclosure of unemployment insurance information on the grounds that the disclosure deters workers from filing claims and impedes the efficient administration of the unemployment compensation program. The VEC is also concerned that unauthorized disclosure of data maintained by the agency may serve as a disincentive to employers to provide such data to the VEC.

However, the U.S. Department of Labor provides that a state agency may disclose information concerning claimants to a public official in the performance of public duties or for the purposes necessary for the proper administration of law administered or enforced by such public official. The federal requirements for data disclosure are outlined in Unemployment Insurance Letter (UIPL) 34-97, dated June 10, 1997. The VEC is required to comply with the Freedom of Information Act (§ 2.2-3700 et seq.) and the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) of the Code of Virginia. In addition, the VEC is bound by the Social Security Act and by policies implemented by the U.S. Department of Labor.

The guidelines below are intended to reconcile the legal requirements of state and federal statutes and regulations and to ensure that information is released in a timely manner, that when released it is done in full compliance with confidentiality requirements, and that such data are used only for the purposes authorized by law.

**Written Agreements:** Each person, acting on behalf of an agency or political subdivision, who requests access to Virginia Employment Commission data shall be authorized to receive such data as provided in a written agreement executed with the Virginia Employment Commission. Such written agreement shall include:

- (i) the type of data the requester may receive;
- (ii) the purpose, scope and permitted use of the data disclosed;
- (iii) a statement that the use of the data is limited to official governmental duties;

- (iv) an assurance that individuals who receive VEC data will abide by federal confidentiality requirements;
- (v) an agreement to reimburse the VEC for the cost of providing the data;
- (vi) a statement of penalties for the misuse of data;
- (vii) an agreement to maintain an auditable record of the basis for data requests;
- (viii) an agreement by the public official to assume responsibility for the use or misuse of the data;
- (ix) in the case of an agency or political subdivision requesting access for a designated agent, an agreement to re-submit the written agreement for approval whenever the designated agent changes; and
- (x) the date or conditions of termination of the agreement.

**Types of Access:** To comply with federal confidentiality requirements, data disclosures will be limited to the minimum information required to meet the purpose for which data are requested. Access can be provided in one of two methods:

- (i) Electronic access to the VEC's database; or
- (ii) Written requests directed to the VEC's Customer Service Unit.

#### **Disclosures under § 60.2-114.C**

Disclosure will be limited to items that are necessary in order to collect fines, penalties, and costs owed to agencies of the Commonwealth and political subdivisions. Disclosure will include the name and address of the subject's employer.

#### **Disclosures under § 60.2-114.B**

Disclosure will be limited to wage and employment data necessary for the purposes of the National Directory of New Hires established under § 453 (i) of the Social Security Act. Disclosure will include the name and address of the subject's employer, wage data, and information regarding any unemployment insurance claim the subject files.

#### **Disclosures to agents of the U.S. Department of Housing and Urban Development**

The VEC will disclose wage and benefit data for the purposes of determining program eligibility.

#### **Disclosures to law enforcement personnel**

The VEC will disclose data to law enforcement personnel as needed for their investigations.

#### **Disclosure for studies**

From time to time, the VEC is requested to provide access to agency data for the purpose of legislative or other public studies. In these cases, data will be provided stripped of identifying information and will be limited to disclosures necessary for the purposes of the study.

**Cost of access:** Federal policy requires that if the disclosure of data involves more than incidental staff time, the requesting entity must bear the costs associated with such disclosure.